

REMARKS

The Office Action of March 25, 2009 was received and carefully reviewed.

Presently, claims 1-3 are hereby amended to clarify the invention, and not for reasons of patentability. New claim 19 has been added by way of this response. Currently, no claims are canceled. Accordingly, claims 1-19 are currently pending in the subject application.

Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

Claim Rejections – Prior Art

Claims 1-7, 14, and 15 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Wieczorek (EP 1 271 911) (*Wieczorek*, hereinafter). Claim 8 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wieczorek* in view of Parsons et al. (U.S. Pub. No. 2002/0085701 A1) (*Parsons*, hereinafter). Claims 9-13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wieczorek* in view of Guibourge (U.S. Pub. No. 2004/0119755 A1) (*Guibourge*, hereinafter). Claims 16-18 stand rejected under 35 U.S.C. § 103(a) as allegedly being patentable over *Wieczorek* in view of Heatly (U.S. Patent No. 7,164,936 B2) (*Heatly*, hereinafter). Applicant traverses the rejections for at least the reasons set forth below.

Applicant contends that independent claim 1, and the claims dependent therefrom, are patentably distinguishable over *Wieczorek*, *Parsons*, *Guibourge*, and *Heatly*, since *Wieczorek*, *Parsons*, *Guibourge*, and *Heatly*, taken either alone or in combination, fail to disclose, teach, or suggest each and every feature recited in the pending claims. For example, independent claim 1 (emphasis added) recites:

1. A method of operating a telephony service on a telephony network, the method comprising:
 - establishing a telephonic connection between a caller and a call recipient;
 - receiving a command signal on a network device during a call set-up phase in the call process; and
 - initiating a transaction between the caller and the call recipient, as applied to the call set up information, in**

response to receiving the command signal, the transaction being other than a standard call connection transaction, the transaction affecting billing for the telephonic connection,

wherein the command signal is transmitted from telephone equipment of the caller and being other than a standard call connect or disconnect command.

Independent claim 1 is directed to, *inter alia*, the feature of initiating a transaction between the caller and the call recipient, as applied to the call set up information, in response to receiving the command signal, the transaction being other than a standard call connection transaction, the transaction affecting billing for the telephonic connection. Neither *Wieczorek*, *Parsons*, *Guibourge*, and *Heatly*, either taken alone or in combination, disclose, teach, or suggest at least the feature of initiating a transaction between the caller and the call recipient, as applied to the call set up information, in response to receiving the command signal, the transaction being other than a standard call connection transaction, the transaction affecting billing for the telephonic connection, as recited in present independent claim 1.

First and foremost, the features of the present invention invoke a service feature, which is wholly different from a signal which merely selects a feature from a service that was previously invoked. In other words, by the caller signaling, the regular telephony request is differentiated. *Wieczorek* and *Parsons* both have a signal that is being applied to a feature that has already been invoked, which is distinct from the what is happening in the present invention.

More specifically, *Wieczorek* merely discloses a method which applies to a reverse-charge calling system. In paragraph [0005] reference is made to a system described in US 5,473,671, in which a callee (call recipient) creates a list of accepted callers that is maintained in a database by a service provider. When a call comes in, a determination is made as to whether the caller is an “accepted” caller. If so, the call is forwarded (automatically, by the network) to the callee and the callee is billed for the call (i.e. a reverse-charge call is established automatically). If the caller is not on the accepted caller list, the caller is not automatically connected reverse-charged, but is offered the option to pay for the call, and can signal willingness to do so by pressing key on his/her handset. Failing such acceptance, the call is aborted.

Paragraph [0010] of *Wieczorek* states: “The present invention is thus directed to providing “reverse call payment” functionality in the absence of a request made by the caller, in other words entirely at the election of the callee.” It will be appreciated that this is completely different from, and essentially the antithesis of, what is proposed to be claimed. Claim 1 as now amended requires specifically that the caller initiate a command signal in a call set-up phase of a conventional telephony call process, from his/her telephone equipment, to initiate a service or transaction. *Wieczorek* does not disclose or suggest this and it is clear in the context of paragraphs [0010] and [0011] of *Wieczorek* that such functionality is not contemplated. Mention is made in *Wieczorek* (e.g. paragraph [0031]) of interaction between the caller and callee regarding who will pay for a call, but this takes place as a response to a charge request made by the callee, in response to the initial call which does not include any such request. In any case, such an interaction clearly goes beyond what could be termed “a call set-up phase in a conventional telephony call process” as per amended claim 1.

Although the examiner cites paragraph [0005] of *Wieczorek* as teaching a command signal initiated by the caller during a call set-up phase, this paragraph relates to the setting up of the “accepted” caller list referred to above. The quoted phrase: “a willingness on the part of the caller to pay for the call is indicated by a signal from the caller...”, refers to the interaction discussed in the paragraph above, where the caller responds to an offer to pay for the call after the set-up process has been initiated and the callee has declined to pay for the call.

Neither *Parsons*, *Guibourge*, nor *Heatly* remedy the above mentioned deficiencies with respect to *Wieczorek*, and the Examiner has failed to provide a proper *prima facie* case of obviousness in the rejection of the claims. Therefore, Applicants respectfully request the withdrawal of the rejection, and the allowance of independent claim 1.

Claims 2-18 are allowable at least by virtue of their dependency from independent claim 1, but also because they are distinguishable over the prior art. Accordingly, Applicant respectfully requests the withdrawal of the rejection, and the allowance of these claims.

New claim 19 is distinguishable over the prior art, and thus is in condition for immediate allowance.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if any issue remains after considering this response, the Examiner is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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Date: September 25, 2009

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